

ESSA: Implementing Foster Care Transportation Guidelines Local Education Agencies (LEA)

Note: The Georgia Department of Education (Department) developed this brief in partnership with the Georgia Department of Human Services (DHS). Certain questions are extracted directly from the Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care. This brief is intended for informational use only and does not constitute Department policy or legal advice.

What is an LEA's role in providing transportation for a child in foster care to his or her school of origin?

The school of origin is the school in which a child is enrolled at the time of placement in foster care. An SEA and its LEAs must ensure that a child in foster care enrolls or remains in his or her school of origin unless a determination is made that it is not in the child's best interest. (ESEA section 1111(g)(1)(E)(i)).

An LEA must collaborate with the State or local child welfare agency to develop and implement clear written procedures governing how transportation to maintain children in foster care in their schools of origin, when in their best interest, will be provided, arranged, and funded for the duration of the child's time in foster care (the transportation procedures). These procedures must ensure that:

- Children in foster care needing transportation to their schools of origin will immediately receive that transportation in a cost effective manner and in accordance with section OCGA §20-2-133(b), OCGA §20-2-690.1 and 475(4)(A) of the Social Security Act; and
- If there are additional costs incurred in providing transportation to the school of origin, the LEA will provide such transportation if (1) the local child welfare agency agrees to reimburse the LEA for the cost of such transportation; (2) the LEA agrees to pay for the cost; or (3) the LEA and local child welfare agency agree to share the cost. (ESEA 1112(c)(5)(B)).

Coordination among multiple LEAs and child welfare agencies may be necessary.

How do LEAs identify children in foster care?

On the state level, the Georgia Department of Human Services (DHS), which houses the Division of Family and Children Services (DFCS) periodically sends a list of children in foster care that are flagged in the Department's student information system for information sharing and reporting purposes; however, on the local level, LEAs will be notified directly by foster parents, DFCS case workers, Court Appoint Special Advocates or Education Support Monitors (ESM), within the Educational Programming, Assessment and Consultation (EPAC) unit of DFCS. Once identified, LEAs must implement its plan to ensure educational stability for children in care.



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How does DHS currently ensure school stability?

The Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351, [Fostering Connections Act](#)) amends parts B and E of Title IV of the Social Security Act. Among its provisions to address the needs of children and youth in foster care, the law seeks to promote education stability for foster children. There are funds available for transportation under the EPAC Unit. Transportation is coordinated through the EPAC Unit of DFCS.

By when must an LEA develop and implement its transportation procedures?

An LEA must collaborate with the State or local child welfare agency to develop and implement local transportation procedures by December 10, 2016 (one year after the enactment of the ESSA). (ESEA section 1112(c)(5)(B)).

What is the duration of time that the LEA must provide a child with transportation services under ESEA section 1112(c)(5)? What happens once a child exits foster care?

An LEA must ensure that a child in foster care needing transportation to the school of origin receives such transportation for the duration of the time the child is in foster care. (ESEA section 1112(c)(5)(B)). When a child exits foster care, the LEA should continue to prioritize the child's educational stability, consider each child's best interest on a case-by-case basis, and, when possible, make every effort to continue to ensure transportation is provided through the end of the school year, if needed, when remaining in the school of origin would be in the child's best interest.

How is "best interest" determined?

LEAs and child welfare agencies have flexibility in determining which factors should be considered as part of evaluating the appropriateness of the current educational setting, as well as any additional factors that pertain to a child's best interest. LEAs and child welfare agencies should carefully review the "Best Interest Determination" section of the [Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care](#); however, child welfare agencies make the final best interest decision due to factors beyond the scope of the educational arena, including, but not limited to court-ordered requirements, family dynamics, previous trauma, safety concerns, sibling placements, socio-emotional needs, etc. Transportation costs should not be considered when determining a child's best interest, which is consistent with the [program instruction](#) released by The U.S. Department of Health and Human Services (HHS) subsequent to the passage of the Fostering Connections Act.

What funding sources may be used to pay for additional transportation costs?

In addition to State and local funds that may be available for providing transportation, certain Federal funds may be available to cover additional transportation costs to maintain children in foster care in their schools of origin.

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What steps should an LEA and local child welfare agency take to ensure that transportation is provided if they face difficulty reaching agreement on how to pay for additional transportation costs?

The LEA and the local child welfare agency should make every possible effort to reach agreement regarding how transportation should be funded if there are additional costs. Both agencies must collaborate regarding transportation if it is necessary so that a child in foster care may remain in his or her school of origin, consistent with section 475(5)(G)(ii)(I) of the Social Security Act. We encourage the LEA and local child welfare agency to consider and utilize all allowable funding sources, including Federal funds, to cover additional transportation costs. Maximizing all possible funding sources in this manner will help ensure that transportation costs for children in foster care do not become unduly burdensome on any one agency.

The transportation procedures should address how this requirement will be met even if the relevant agencies cannot reach agreement on how to fund any additional transportation costs. For example, the procedures could include a local dispute resolution process that the agencies would follow in the event of such disagreement.

If an LEA does not provide transportation to children who are not in foster care, is it required to transport children in foster care to their schools of origin?

Yes. An LEA must ensure that transportation is provided for children in foster care consistent with the procedures developed by the LEA in collaboration with the State or local child welfare agency under section 1112(c)(5)(B) of the ESEA. These requirements apply whether or not the LEA already provides transportation for children who are not in foster care.

Are charter school LEAs and virtual schools functioning as an LEA required to provide transportation for children in foster care?

Yes, to the extent that a charter school or virtual school is considered an LEA under a State's law, it must meet the transportation requirements on the same basis as any other LEA.

Is an LEA required to transport children in foster care to and from their schools of origin while transportation cost disputes are being resolved?

An LEA must ensure that children in foster care needing transportation to the school of origin promptly receive such transportation in a cost-effective manner. (ESEA section 1112(c)(5)(B)(i)). Therefore, the LEA must provide or arrange for adequate and appropriate transportation to and from the school of origin while any disputes are being resolved.